

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EARL DAVIS,

Plaintiff,

v.

JOSEPH P. CARROLL, and
JOSEPH P. CARROLL LIMITED,

Defendants.

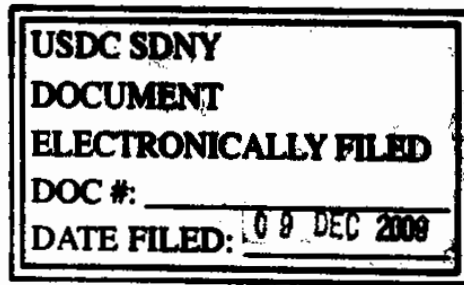
JOSEPH P. CARROLL
and JOSEPH P. CARROLL LIMITED,

Counterclaim Plaintiffs,

-against-

EARL DAVIS,

Counterclaim Defendant.



No. 09 CV 01088 (PAC) ECF

**EMERGENCY ORDER TO SHOW CAUSE TO SECURE STUART DAVIS
ARTWORKS FOLLOWING DEFENDANTS' VIOLATION OF THE COURT ORDER
OF NOVEMBER 13, 2009, PENDING CONTEMPT PROCEEDINGS**

Upon the accompanying Declaration of David B. Goldstein, sworn to on December 8, 2009, and Exhibits thereto, a copy of which has been provided to Defendants' counsel by electronic mail on this date, and this Court's Order to Show Cause for Temporary Restraining Order and Preliminary Injunction, signed and filed on November 13, 2009 ("the November 13 Restraining Order"), and notice of this matter having been given to counsel for Defendants, and upon sufficient cause having been shown, it is hereby:

ORDERED, that the five (5) artworks created by Stuart Davis that are the subject of the November 13 Restraining Order, namely, *Black and White Variation on Pochade I (Elite # 6)*; *Tobacco Fields, Tioga, Pa.*; *Abstraction*; *Pad Series No. 1*; and *Pad Series No. 3* (hereinafter

collectively, the "Davis Works"), shall be delivered by Defendants or Defendants' agents, acting under the supervision and control of Defendants' counsel, to the Cirkers Hayes storage facilities, 305 E. 61st Street, New York, New York 10065, as follows:

1. *Pad Series No. 1* and *Pad Series No. 3*, shall be delivered no later than 24 hours after notice of this Order is provided electronically to counsel for Defendants at judell@olshanlaw.com, and Defendants' counsel shall immediately notify Plaintiff's counsel at dgoldstein@rbskl.com, upon said delivery;
2. Defendants' counsel shall use all available means to expedite the return to New York of *Black and White Variation on Pochade I (Elite # 6)*; *Tobacco Fields, Tioga, Pa.*; and *Abstraction*, and shall report to the Court and Plaintiff's counsel within 24 hours of electronic notification of this Order of the actions taken and results of those actions; and
3. *Black and White Variation on Pochade I (Elite # 6)*; *Tobacco Fields, Tioga, Pa.*; and *Abstraction* shall be delivered on the date they arrive in New York City, unless they arrive after 4 p.m., in which event they shall be delivered no later than 10 a.m. on the date after those works arrive in New York City, and Defendants' counsel shall immediately notify the Court and Plaintiff's counsel upon the arrival of these three Davis Works in New York City and their delivery to Cirkers Hayes;

and it is further

ORDERED that Defendants' counsel, upon delivery of *Pad Series No. 1* and *Pad Series No. 3*, shall provide to Cirkers Hayes, with a copy to Plaintiff's counsel, an executed letter in the form annexed as Exhibit 3 to the Goldstein Declaration, and shall further provide a copy of this Order to Cirkers Hayes; and it is further

ORDERED that the five Davis Works are not to be removed from Cirkers Hayes unless so Ordered by this Court; and it is further

ORDERED that Plaintiff's attorney, David B. Goldstein, Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C., be given sole authority to permit access to the Davis Works, *with 24 hr*
hours advance notice to attorney for defendant,
including for purposes of inspection, and sole authority to present any Court Order to Cirkers Hayes affecting disposition of the Davis Works, absent further Order of the Court; and it is further

ORDERED that the five Davis Works shall be insured in an amount not less than \$3,000,000. All insurance, transportation, storage, and all other costs associated with the storage of the Davis Works at Cirkers Hayes shall be borne by Defendants. Defendants' counsel shall *the close of business on Friday, December 11, 2009*
provide the certificate of insurance to Plaintiff's counsel no later than ~~24~~ hours after notice of this Order is provided electronically to counsel for Defendants; and it is further


ORDERED that Plaintiff shall serve and file their motion for contempt in connection with Defendants' violation of the November 13 Restraining Order, and any accompanying papers no later than December 18, 2009, and that Defendants shall serve and file any papers in Opposition no later than January ⁴~~7~~, 2010; *reply by January 11, 2010* and this matter shall be heard before the Honorable Paul A. Crotty, U.S.D.J., Courtroom 20-C, United States Courthouse, 500 Pearl Street, in the City, County and State of New York, on Wed Jan 13, 2010, at 4:45 o'clock in the afternoon noon thereof, or as soon thereafter as counsel can be heard; and it is further

ORDERED, that any modifications of the terms of this ORDER, including extensions of time, shall be made on stipulation of Plaintiff and Defendants, which shall not be effective until

so ordered by this Court, or by such application as is provided by the Federal Rules, and other applicable rules.

Dated: New York, New York
December 8, 2009

SO ORDERED:



Hon. Paul A. Crotty
United States District Court Judge